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OFFICE OF PETITIONS

In re Application of :  
BAMDAD et al. :  
Application No. 10/763,810 : DECISION ON PETITION  
Filed: 01/23/2004 :  
Attorney Docket No. M1015.70054US01 :  
:

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

Accordingly, the petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 5, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 6, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on February 25, 2008.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination and submission, paid the petition fee, and made the proper statement of unintentional delay.

The Office notes that an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). As the \$865.00 extension of time fee submitted with the petition on April 6, 2009, was filed after the maximum extendable period for reply, this fee is unnecessary and will be refunded.

This matter is being referred to Technology Center Art Unit 1655.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

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